



30 Bank Street  
New Britain, CT  
06050-0350

**TESTIMONY IN SUPPORT OF  
HB 6321 AAC Adoption and Implementation of the Connecticut Parentage Act**

Mark Randall  
CBA Family Law Section

Judiciary Committee  
March 8, 2021

Honorable Members of the Judiciary Committee:

I am an associate at Needle Cuda, a divorce and family law firm located in Westport, Connecticut. I have practiced exclusively in the area of matrimonial and family law since graduating from The University of Connecticut School of Law.

I am an active member of the Family Law Section of the Connecticut Bar Association ("CBA Family Law Section"), Fairfield County Bar Association, New York State Bar Association, and the American Bar Association. I am on the Executive Committee of the CBA Family Law Section and am also member of the CBA Family Law Section Legislative Committee. I am presently serving on a subcommittee of the CBA Family Law Section tasked with studying HB6321.

**In my role with the CBA Family Law Section, I write in support of HB 6321, An Act Concerning Adoption and Implementation of the Connecticut Parentage Act, with the following amendments proposed by the CBA Family Law Section:**

1. The CBA Family Law Section proposes the follow amendment to Section 37(b) of HB 6321, which Section creates the "presumed parent," a new legal concept in Connecticut:

Insert the following language to subsection (b) after line 628:

(4) The presumed parent is not a genetic parent, has not resided in the same household as the child for two years and has not maintained the parental relationship with the child.

The CBA Family Law Section proposes this amendment in order to further the ability of a person seeking to rebut a presumption of parentage after the child reaches two years old, specifically considering the importance of a continued relationship with the child.

2. Sections 38 and 39. The CBA Family Law Section does not oppose the concept of the “de facto parent,” as set forth in HB6321, but the CBA Family Law Section does have serious concerns that “de facto parentage,” as created by these Sections, may be used as a sword by ex-partners of a legal parent to exert emotional control over, or emotional harm upon, the legal parent. The CT Family Law Section believes there should be additional safeguards in place to protect a legal parent, and proposes certain amendments to address these concerns.

By way of quick legal background, the Connecticut Supreme Court, in Doe v. Doe, 244 Conn. 403 (1998), expressly rejected the concept of “equitable parent” doctrine,<sup>1</sup> which is analogous to the currently defined “de facto parentage” being proposed by HB 6321, reasoning:

“Using purely equitable concerns to reformulate the definition of parentage under our dissolution statutes would be inconsistent with our entire jurisprudence in the area of marital dissolution, which, as discussed, locates the source of judicial power in those statutes, and not in the court's common-law powers of equity... Furthermore, acceptance of the equitable parent doctrine would also be inconsistent with our statutory scheme for adoption...A court is not at liberty to bestow parental status independent of that scheme...Finally...where...there is a custody disagreement between a parent and an interested third party with a powerful claim to custody, our statutes afford sufficient flexibility and discretion to the trial court to recognize that claim, without the necessity of creating the legal fiction of an “equitable parent.” Doe v. Doe, 244 Conn. 403, 443–45 (1998)(internal citations and quotations deleted).

In light of the Doe decision, regardless of whether believed to be rightly or wrongly decided, the CBA Family Law Section believes the legislature should be cautious about creating “de facto” (equitable) parentage without adequate legal safeguards for a legal parent.

With these thoughts in mind, the CBA Family Law Section proposes the following amendments to HB 6321 in an effort to place an added importance on the relationship between the “de facto parent” and the child:

a. **Section 38, Subsection (a), Paragraph (1) (lines 676-679).** Delete the language in brackets, add the underlined language:

1. The person resided with the child as a regular member of the child's household for [at least one year] a period of at least four years, or, if the child is not yet four years old, since the birth of the child, unless the court finds good cause to accept a shorter period;

b. **Section 38, Subsection (a), Paragraph (6) (lines 689-691).** Delete the language in brackets, add the underlined language:

6. Another parent of the child fostered or supported the bonded and dependent relationship required under subdivision (5) of this subsection and held the person out as a parent of the child (understood, acknowledged or accepted that, or behaved as though, the person is a parent of the child); and

c. **Section 38, Subsection (a).** Add the following new paragraph after line 693:

8. The child, as long as of a sufficient age as determined by the court, held the person out as their parent.

d. **Section 39, Subsection (a).** Add the following new paragraph after line 730:

3. if not currently residing in the same household as the child, has supported the child financially since ceasing to reside in the same household as the child.

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Thank you for the opportunity to submit this written testimony on HB 6321, and I welcome the opportunity to make any further comments at your request.